CUSTODY, ACCESS AND CHILD/SPOUSAL SUPPORT: A PILOT PROJECT

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EXECUTIVE SUMMARY

The objectives of this pilot study were to:

1. Describe various types of custody and access orders; levels of child/spousal support; characteristics of custodial and non-custodial parents and children in various arrangements; changes in custody, access and support arrangements; and, satisfaction with arrangements, the court process, and the decision.

2. Determine the feasibility of collecting information on custody, access, child/spousal support arrangements from court files (divorce and non-divorce), and from tracking a sample of custodial and non-custodial parents via telephone interviews.

The court files were selected from two courts, the Hamilton Unified Family Court and a Family Court in Hull, Quebec. The sample of 200 court files contained applications filed in October 1992. From this sample, 40 divorced couples were selected, and attempts were made to interview them by telephone. Only 34 of a possible 80 divorced parents were interviewed.

CHARACTERISTICS OF COURT SAMPLE:

For the court sample the major findings of this study are:

Custody

- Of the files containing information on custody, 86 percent were awarded sole custody, 9 percent were awarded joint legal custody, 5 percent were awarded split custody, and 1 percent were awarded joint physical custody.
- The award of sole custody varied by court - 94 percent of awards were for sole custody in the Hull sample, compared to 79 percent in the Hamilton sample.
- The award of joint legal custody also varied by court - 16 percent of awards were for joint legal custody in the Hamilton sample compared to 0 percent in the Hull sample.
- Of the 138 parents who were awarded sole custody, 91 percent were mothers and 9 percent were fathers.

Access

- Of the files containing information on access, the majority of court orders were for "liberal" or "reasonable" access arrangements. "Liberal" access arrangements were ordered for 46 percent of the couples, "reasonable" access for 40 percent, and "restricted" access for 13 percent.

Child Support

- The median monthly level of child support ordered for custodial parents was $200 per family. The corresponding figures for the Hamilton and Hull samples were $150 and $300,

respectively.

- Median monthly child support orders represent 10 percent of the reported monthly income of child support payers in the Hamilton sample, and 12 percent of the reported monthly income of child support payors in the Hull sample.

Spousal Support

- Orders for spousal support payments were recorded for 8 percent of the spouses (all male) in the total sample. Eighty-one percent of these were divorced spouses and 19 percent were separated spouses.

CHARACTERISTICS OF INTERVIEW SAMPLE:

The analysis of the interview sample is intended only to provide some indication about the type of information that can be obtained through interviews with custodial and non-custodial parents. Since this was a pilot project, the main objective was to determine whether this method was a feasible data collection strategy. Only 34 parents were interviewed (31 from the Hamilton court and 3 from the Hull court). Therefore, caution should be taken when interpreting the analyses of interview data. With a larger number of respondents, the findings may change substantially.

For the interview sample, the major findings are:

Client Satisfaction

- Client satisfaction with court outcome varied with the issue being negotiated - 52 percent were "extremely/very/satisfied" with the way custody was negotiated, 45 percent with the way access and property were negotiated, and 39 percent with the way child support was negotiated.
- Almost one-third (32 percent) of the parents were "extremely/very/dissatisfied" with the access arrangements negotiated for them.
- Over one-half of the parents (55 percent) reported that their children were satisfied with the amount of time they spend with their ex-spouses now.
- Sole custodial mothers were more satisfied with the court and lawyers than were non-custodial fathers.

Relations with Children

- Almost one-half (47 percent) of the parents reported cooperating on "all/most" matters relating to the children.
- Almost two-thirds (64 percent) of the parents reported that the separation/divorce process had an "extremely stressful/very stressful" impact on the children, and almost three-quarters (73 percent) reported that this process had the same highly stressful impact on them.
- Over one-half (53 percent) of the parents reported being satisfied with the amount of time they spend with their children, with "problems with ex-spouses" being the most frequently cited reason why they may want to spend less time with their children.

- Six of nine custodial parents (66 percent) and three of nine (33 percent) non-custodial parents were satisfied with the amount of time they spend with their children.

FEASIBILITY:

A representative national study is one that produces valid unambiguous, stable findings that may be generalizable to Canada as a whole, and one that can be completed within reasonable cost and time parameters. The process of completing this pilot project not only helped identify a number of threats to the feasibility of a national study, but also suggested ways in which they could be eliminated or their impact attenuated.

Two major sources of data were used in this pilot project - court files and telephone interviews with custodial and non-custodial parents. Incomplete court file data were found for various questions relating to custody, access, support, income and expenses. Parents who were interviewed were reluctant to answer the questions on financial support for individual children as well as questions relating to their incomes. More complete court file data could be collected if the following steps were implemented:

- include in the sample only those files for which related family (separation) files dealing with support and access are available; and,
- include in the sample only those couples who, at the time of their application had dependent children aged 14 or under.

A higher response rate to the interview questions noted earlier could be elicited if the following steps were taken:

- change the format of the questions (e.g., moving from total to individual child support payments);
- ask both parents the same questions on total and individual child support levels;
- ask both parents the same questions about their incomes and expenses as well as the incomes and expenses of their former partners;
- pay ex-spouses who agree to be interviewed for their time.

The reliability or stability of the findings can be increased by interviewing couples who have been divorced for approximately two years.

All of the problems and solutions described here relate to the internal validity of the study. Threats to its external validity (generalizability of the findings) include the absence of information in the court file that would enable researchers to contact couples by telephone; failure to elicit from spouses information that would have helped the interviewers contact spouses; and, the relatively brief period of time available for completing the telephone interviews.

A far higher proportion of the sample selected from court files could be interviewed if the following steps were taken:

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- court staff ensured that the full names (married and maiden) and addresses of both applicants and respondents as well as their lawyers are included in applications, answers and motions;
- couples were paid for the time taken to complete the interview; and,
- each interviewer was allowed three months to complete interviews with 50 couples.

The implementation of these solutions will make a national study on the impact of court orders relating to custody, access and support on custodial and non-custodial parents, their children and the family law court system, feasible.

1.0 INTRODUCTION

According to a recent report "close to half of all children born [in 1994] will likely see their parents separate or divorce"[1]. One likely consequence of this is that the proportion of single-parent families will increase. The majority of single-parent families are headed by women (83 percent) and these families have one of the lowest median incomes of all family types. At the same time, the remarriage and cohabitation rates have increased, often resulting in "blended families" with children who parents refer to as "yours, mine and ours". This development has had the consequence of increasing the complexity of family ties. Thus, blended family children may have or develop bonds with a new parent, grandparents, step-relatives, step-siblings and so on. This situation, together with a marked tendency for judges to identify the best interests of the children with the award of sole custody to mothers, has created a number of contending special interest groups. With these types of dynamics working within society, the issues and problems facing policy makers in family law represent a tremendous challenge.

To an important degree, the burden on taxpayers and the quality of life for custodial parents, non-custodial parents, parents of blended families, grandparents and children of divorced parents generally, is influenced by court orders, memoranda of understandings, and/or agreements reached on custody, access and support during the process of separation and divorce. In order to assess their impact however, we need reliable descriptive information on extant custody and access arrangements and child and spousal support levels, as well as post-divorce information about the impact these have on relations between parents and children; custodial and non-custodial parents; children and children; grandparents and children, economic situation, relitigation rates and so on. The problem is that this information is presently unavailable.

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[1] The statistics cited are taken from a report written by the Vanier Institute of the Family, Ottawa (1994), entitled Profiling Canada's Families.

2.0 METHOD

2.1 Purpose

The purpose of this research report was to describe the nature of custody, access, and child/spousal support arrangements among a relatively small sample of separated or divorced parents, from two selected courts in Canada (the Hamilton Unified Family Court and the family court in Hull, Quebec) and from interviews with custodial and non-custodial parents. This pilot project attempted to examine the feasibility of collecting the relevant information using these two methods.

2.2 Research Objectives

The objectives of the project were to:

1. Describe various types of custody and access orders; levels of child/spousal support; characteristics of custodial and non-custodial parents and children in various arrangements; changes in custody, access and support arrangements; and, satisfaction with arrangements, the court process, and the decision.

2. Determine the feasibility of collecting information on custody, access, child/spousal support arrangements from court files (divorce and non-divorce), and from tracking a sample of custodial and non-custodial parents via telephone interviews.

2.3 Sample

2.3.1 Court Files

For purposes of comparison and generalization, two courts located in two different provinces were selected. One was the Hamilton Unified Family Court. This court was chosen because unlike most other family courts (e.g., St. Catherines), it is authorized to deal with all matters relating to divorce and separation. As divorce and separation files are located in the same office, data collection is facilitated. The other court was a family court in Hull, Québec. This is a more typical family court (they do not have Unified Family Courts in Québec) in which matters relating to divorce and separation are dealt with by different judges in different courts. Divorce and separation files, however, are kept in the same building. This facilitates data collection. The proximity of Hull to Ottawa made the Hull court an economical choice as the bilingual research assistant/interviewer lived in Ottawa, not far from the court.

The "sampling frame" for selecting files consisted of all family court activity in the two courts during the month of October 1992. The year 1992 was selected because it was the year closest to the study year (1995) during which we estimated all or most of the cases would be closed. In addition, it was thought that it would be recent enough so that the addresses of the custodial and non-custodial parents may still be correct. In both courts, it was discovered that court activity relating to these files varies during different months of the year. Discussions with court staff indicated that the greatest number of applications were likely to be filed during October, November, February, March, April and May. One of these months was randomly selected in order to obtain the largest number of cases

possible that was representative of the activity of the court. Only one month was selected because of a funding limit geared to the nature of the study (a pilot project).

The research design called for the selection of four types of files/cases. These included: divorce files; separation files among those legally married; separation files among those in common-law relationships; and, paternity files. As indicated earlier, family court files include all of these files. In Hamilton, the divorce files are referred to as "V" files and separation/paternity files as "D" files. In Hull, divorce files are referred to as "12" files and separation/paternity files as "04" files.

Since the main focus of the project was on custody, access and child support, the research design further called for the selection of only those files involving parents with children.

The sampling frame for the divorce files was the Central Divorce Registry (CDR), maintained by the Department of Justice in Ottawa. From this frame, court files were selected. The selection criteria were year (1992), month (October), type of file (parents with children), and court (Hamilton and Hull). Court file numbers produced by these criteria were used to select "divorced parents-with-children" files opened during the month of October 1992 by the Hamilton and Hull family courts. Similarly, the sampling frame for the separation and paternity files was all separation files opened during the month of October 1992 by the Hamilton and Hull family courts. From this frame, all "separated parents-with-children" and "paternity" cases were selected. The specific steps involved in retrieving these files are described in Appendix A.

Court file data were collected by a systematic, detailed examination of all records contained in the selected court files (see Appendix B for a list of variables).

Table 1 indicates the types of files chosen from each of the two courts.

TABLE 1
Separation and Divorce Files involving Parents with Children
Hamilton and Hull Family Courts, October 1992

File	Total		Hamilton		Hull	
	#	%	#	%	#	%
Divorce	116	58.0	81	69.2	35	42.2
Separation (married)	29	14.5	8	6.8	21	25.3
Separation (common-law)	38	19.0	19	16.2	19	22.9
Paternity	3	1.5	1	0.9	2	2.4
Other*	14	7.0	8	6.8	6	7.2
TOTAL	200	100.00	117	99.90	83	100.00

* Includes parents seeking enforcement of an order for support or access, or contested custody and/or access arrangements.

During the month of October 1992, 143 divorce files were opened in the Hamilton court, 81 of which (57 percent) involved parents with children. Seventy-eight separation (married or common-law) or paternity files were also opened during this month, 36 of which (46 percent) involved parents with children who wanted the issue of support, custody, access and/or property division settled. Among these files was one paternity case involving a claim for child support, and eight cases in which parents sought enforcement of an order for support or access, or contested custody and/or access arrangements. Therefore, the total number of "parents-with children" files chosen from the Hamilton court was 117. This represents 53 percent of all Hamilton court divorce and separation/paternity files (n=221) for the month of October 1992.

At the Hull family court, for October 1992, there were a total of 53 divorce files, 35 of which (66 percent) involved parents with children. There were also 79 separation (married or common-law) or paternity files, 48 of which (61 percent) involved parents with children who wanted the issue of support, custody, access and/or property division settled. Included among these files were two paternity cases involving claims for child support and six cases in which parents sought to change custody, access and/or support arrangements. Therefore, the total number of "parents-with children" files chosen from the Hull court was 83. This represents 63 percent of all Hull court divorce and separation/paternity files (n=132) for the month of October 1992.

By combining the samples from the Hamilton and Hull courts (117 and 83, respectively), the total sample of "parents-with-children" is 200. The combined "divorce sample" is 116 files (81 and 35, respectively). Finally, the combined "separation/paternity sample" is 84 files (36 and 48, respectively).

2.3.2 Interviews

The sampling design for the interviews called for the selection of 40 ex-couples, 20 from each court. The sampling frame from which these parents were selected was divorce applications filed during the month of October 1992. Anticipating non-contacts and refusals, 40 couples were selected from the Hamilton court files. Of the 40 mothers selected, 26 were able to be contacted by telephone. Of these, 19 were interviewed and one refused (6 more agreed to be interviewed, but the interview was not completed prior to the data collection deadline). Of the 40 fathers selected, 21 were able to be contacted by telephone. Of these, 12 were interviewed, one refused, and a mutually agreeable time to conduct the interview could not be worked out with the remaining eight fathers prior to the data collection deadline. Of the 31 Hamilton parents who were interviewed, only two involved ex-couples. The contact and interview figures reported here are based on an average of six call-backs over a relatively brief, five-week period of time.

The Hull court divorce files yielded the names of only 10 ex-couples whose addresses and/or telephone numbers could be used to contact them. Of these, four mothers and two fathers were able to be contacted. Three of the four mothers were interviewed. Arrangements with the remaining mother and the two fathers could not be worked out prior to the deadline for data collection. There were no outright refusals.

The total interview sample then, consisted of 34 divorced parents selected from family court files in Hamilton and Hull. Through a telephone interview, the respondents were asked a series of questions regarding their background, history of their marriage and divorce, issues surrounding the divorce, outcomes of the divorce, changes since the divorce, relationship with their ex-spouse, and satisfaction in various areas (see Appendix C for the interview questionnaire).

3.0 RESULTS

3.1 Court Data

3.1.1 Background

Court files were examined with a view to collecting information on a number of background factors (see Appendix B). However, it was found that over three-quarters of the files provided no information on education, occupation, type of residence, or public assistance as a source of income. Furthermore, all Hull court files were missing information on employment and "with a new partner". A larger proportion of the files contained information on age of parents (71 percent), income (43 percent), and children (98 percent). Therefore, findings presented are restricted to these three demographic variables.

Age

As shown in Table 2, the average age of mothers and fathers in the total sample (of 200) was 37 and 40 years of age, respectively. On average, mothers and fathers in the divorce sample were older than those in the separation sample (39 versus 34 for mothers; 41 versus 36 for fathers). In addition, non-custodial fathers were on average two years younger than custodial fathers.

TABLE 2
Parent's Age and Income, and Children's Age by Sample Type

Sample Type	Parent's Age		Income*		Children	
	Mother	Father	Mother	Father	Per Couple	Age
	Mean	Mean	Median	Median	Mean	Mean
Total	37	40	$16,008	$16,536	1.7	11
Hamilton	37	40	$16,764	$15,336	1.9	11
Hull	37	39	$13,380	$26,088	1.6	10
Divorce	39	41	$16,764	$16,392	1.8	12
Separation	34	36	$14,292	$17,436	1.5	10
Custodial	36	40	$15,432	$18,516	1.9	11
Non-custodial	35	38	$18,720	$16,044	1.9	11

* Reported for 49% of mothers and 38% of fathers in the sample.

Income

Table 2 shows that the annual median income for mothers and fathers in the total sample was similar ($16,008 and $16,536, respectively). However, there were substantial differences between the two court samples. In the Hamilton sample, the median income for mothers was higher than that of fathers ($16,764 versus $15,336), whereas in the Hull sample, mothers median income was approximately one-half that of fathers ($13,380 versus $26,088). There were also differences between the divorced and separated samples. In the divorced sample, the median income reported by mothers and fathers was similar ($16,764 and $16,392, respectively), whereas in the separated sample mothers annual median income was lower than that of fathers ($14,292 versus $17,436).

The reported annual median income of non-custodial mothers was higher than that reported for non-custodial fathers ($18,720 versus $16,044). However, the reported annual median income of custodial fathers is higher than that of custodial mothers ($18,516 versus $15,432). These findings should be interpreted with one caveat in mind: they are based on reports of approximately 44 percent of the respondents in the court sample. Furthermore, the number of non-custodial mothers and custodial fathers in this sample was quite small (12 of each).

Approximately one-third (36 percent) of the 125 custodial mothers and 8 percent of the 12 custodial fathers were recorded as receiving public assistance. The average monthly amount received was $1,000 for the former and $835 for the latter. Approximately 6 percent of the non-custodial fathers and 17 percent of the non-custodial mothers reported receiving public assistance. The average monthly amount received ws $684 for the former and $1,198 for the latter.

Although there were similar proportions of custodial mothers and non-custodial fathers among the "stable unemployed" group (16 versus 14 percent), there were a slightly higher proportion of non-custodial fathers than custodial mothers among the "stable employed" group (18 versus 11 percent). This suggests that slightly more non-custodial fathers had stable jobs. These findings are based on the analysis of data provided by approximately 27 percent of custodial mothers and 32 percent of non-custodial fathers in the court samples.

Children

The 200 couples in the total sample reported being the parents of 332 children, indicating an average of 1.7 children per couple (range of three). More specifically, 41 percent of the couples had one child, 45 percent had two children, 9 percent had three children, and 3 percent had four children. This was similar in both the Hamilton and Hull courts. In the divorced sample, the average number of children was slightly larger than in the separated sample (1.8 versus 1.5).

Of the 332 children in the total sample, slightly more than one-half were male (55 percent). The proportion of male and female children in the Hamilton and Hull court samples was similar.

The average age of the children was 11 years (Table 2). In the divorced sample, the average age of the children was slightly older than in the separated sample (12 versus 10).

3.1.2 Process Information

Applications

Most cases involved the filing of only one application. Of the files with information on the number of applications filed, only one case involved the filing of two applications. Applications varied with parental status. Specifically, 64 percent were filed by mothers, 26 percent by fathers, and 8 percent were jointly filed. Information on the remaining 3 percent was missing.

Affidavits

A substantially larger proportion of mothers than fathers filed affidavits (71 versus 48 percent). Of the mothers and fathers who filed affidavits, most (82 and 80 percent, respectively) filed one affidavit. The range of affidavits filed was six for fathers and seven for mothers.

When the Hamilton and Hull court samples are compared, the most significant difference is the high proportion of affidavits filed by mothers in the latter sample. Specifically, two-thirds (66 percent) of the mothers in the Hull sample filed at least one affidavit compared to 51 percent of those in the Hamilton sample. Similar proportions of fathers in both the Hull and Hamilton samples filed affidavits (37 and 38 percent, respectively).

Motions

Family law motions are requests to the court to change or enforce orders having to do with property, custody, access or support. Depending on who initiates them and why, motions can be divided into unilateral contempt motions, bilateral contempt motions, unilateral motions to vary, and collaborative motions to vary. Contempt motions have to do with the enforcement of court orders (e.g., a wife may ask the court to enforce an order requesting the husband to sell his cottage and share the proceeds). Unilateral motions are requests to the court by one party to vary or change an order (e.g., a mother asks for increased child support because she has discovered that her ex-husband has been given a job promotion with an increase in salary). Collaborative motions are requests to the court by both partners to vary or change orders (e.g., both parents request that their eldest son be permitted to change his residence from the home of one parent to the home of the other because it is closer to his new school). Interviews with court staff reveal that a "sequential motions process" frequently originates with a motion for interim custody and support by the mother (unilateral motion). Later, the father may respond with a motion to vary access and/or reduce child support payments (unilateral motion). This then may be followed by a motion to enforce the support order filed by the custodial mother (contempt motion). The non-custodial father may then respond by filing a motion to enforce the access order (contempt motion).

Motions were filed by 44 percent (n=87) of the total sample. Of those who filed motions, 38 percent filed for the specific purpose of enforcing an order, and 86 percent filed varying motions. Therefore, the ratio of varying to enforcement motions is approximately two to one. The proportion of parties in the Hamilton court sample who filed motions was significantly higher than in the Hull court (57 versus 33 percent).

Information on the number of motions filed was available for 75 files. Of these, 69 percent filed one motion, 17 percent filed two, and the remaining 13 percent filed three or more. These 75 files accounted for a total of 112 motions. Information on the type of varying motion was available for only 17 of the 75 partners who filed one or more motions. Of these, most (65%) were varying motions relating to child support and access arrangements.

Hearings or Settlement Conferences

Hearings are often held with the objective of narrowing the issues to be determined. Not infrequently hearings represent an escalation of conflict. That is to say, hearings may be held when neither the parties nor their lawyers can resolve issues in dispute. Table 3 shows that the proportion of clients who participated in hearings is much higher in the Hamilton than in the Hull court sample (46 versus 0 percent), while the proportion of clients whose applications were uncontested is much higher in the Hull than in the Hamilton court sample (65 versus 22 percent).

The higher proportion of hearings in the Hamilton court is, to a large extent, a reflection of the different objectives of hearings in the two courts. In the Hull court and other regular family courts, hearings are often held with the objective of narrowing the issues in contention, should the case go to trial. In the Hamilton Unified Family Court, settlement conferences have replaced hearings. Settlement conferences may help narrow the issues, but their primary objective is to actually settle as many issues as possible in the early stages of court processing. Hence, separating and divorcing clients in this court are far more likely to participate in settlement conferences than the Hull court clients are to participate in hearings.

TABLE 3
Hearings by Sample Type

Court	Total		Hamilton		Hull*		Divorced		Separated	
Process	#	%	#	%	#	%	#	%	#	%
Hearings**	55	27.5	54	46.2	0	0.0	18	15.5	27	40.3
W/O Hearings	33	16.5	25	21.4	8	9.8	25	21.6	8	11.9
Uncontested	79	39.5	26	22.2	53	64.6	59	50.9	18	26.9
Contested	33	16.5	12	10.2	21	25.6	14	12.1	14	20.9
TOTAL	200	100.00	117	100.00	82	100.00	116	100.10	67	100.00

* One case with missing data from the Hull court is not included in this table. This is either a coding or data entry error.

** Pre-settlement conferences, not hearings, are held at the Hamilton Unified Family Court.

Hearings and settlement conferences appear to cast a different kind of "shadow" over lawyer negotiations. Thus, lawyers whose local court is a regular family court may encourage their clients to work things out for themselves, or permit their lawyers to negotiate solutions, so as to avoid formal, contested court processing. On the other hand, lawyers whose local family court is a unified one, may not place as much emphasis on informal dispute resolution processes knowing that solutions may be found at relatively informal settlement conferences held at very early stages in the court career of a case.

The differences between the divorced and separation samples are mainly a reflection of the distribution of divorce and separation cases in the Hamilton and Hull courts.

3.1.3 Outcome

Custody

The different forms of custody ordered by the court include sole, joint legal, joint physical, and split custody. Sole custody, the most common form of custody, means that the children live in the house of one parent (the custodial parent), and that parent also has legal custody of the children. Joint legal custody means that the children live in the house of the parent whose home is designated the "primary residence", but both parents share legal custody of the children. Joint physical custody means that the children live in the homes of both parents at different times, and both parents share legal custody of the children. Finally, split custody means that different children reside in the homes of each parent.

Eighty-one percent (n=161) of the files in the total sample provided information on the issue of custody. These proportions differed by court - with 85 percent of the Hull sample, and 77 percent of the Hamilton sample, containing such information. It should be noted that a relatively high proportion of

the "missing cases" include couples for whom custody was not an issue. Of the 200 couples in the sample, 28 had children between 16 and 30 years of age at the time their applications were filed. For couples with children in this age group, custody is frequently not an issue. Cases in which it was not possible to clearly determine the form of the custody arrangement, and cases in which relatives had custody were also excluded[2].

TABLE 4
Form of Custody by Sample Type*

Form	Total		Hamilton		Hull		Divorced		Separated	
	#	%	#	%	#	%	#	%	#	%
Sole	138	85.7	71	78.9	67	94.3	78	80.4	50	92.6
Joint Legal	14	8.6	14	15.6	0	0.0	14	14.4	0	0.0
Joint Physical	1	0.6	0	0.0	1	1.4	1	1.0	0	0.0
Split	8	5.0	5	5.6	3	4.2	4	4.1	4	7.4
TOTAL	161	99.90	90	100.10	71	99.90	97	99.90	54	100.00

* This table excludes cases where custody was not an issue or information was missing (Total = 39; Hamilton = 27; Hull = 12; Divorced = 19; Separated = 13).

As shown in Table 4, of the 161 couples for whom custody information was available, 86 percent were awarded sole custody, 9 percent were awarded joint legal custody, 5 percent were awarded split custody, and 1 percent (one couple) were awarded joint physical custody. Although the majority of awards were for sole custody, these were more common in the Hull than the Hamilton sample (94 versus 79 percent). While 16 percent of the Hamilton sample was awarded joint legal custody, in the Hull sample there were no instances of joint legal custody awarded. In interpreting these differences it is relevant to note that the Hamilton Unified Family Court has a publicly funded, judicially supported, court-based mediation service and that mediation is part of this court's culture. Mediators in the court's mediation service have a preference for shared parenting.

A larger proportion of the separated sample were awarded sole custody compared to the divorced sample (93 versus 80 percent). All joint custody arrangements (both legal and physical = 15 percent) were confined to the divorced sample.

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[2] We were told that some parents arrange for relatives living in a desirable sports league area to have custody of their children so that they can legally participate in a sports league which falls outside the area in which the parents reside.

The majority (91 percent) of the sole custodial parents were mothers.

Access

As they are recorded in court files, access arrangements are classified as "liberal", "reasonable" or "restricted". The former two terms are not defined. Restricted access refers to access which has been restricted by a court order. In an attempt to define liberal and reasonable access, the interviews administered to custodial and non-custodial parents were examined[3]. Based on this information, liberal and reasonable access categories are not distinct categories, but arrangements which can be placed on an access continuum. Therefore, liberal access includes all (or most) arrangements subsumed under reasonable access plus more frequent, or longer, access by the non-custodial parent. Restricted access evidently covers both supervised access and access that is restricted in other ways by court orders (e.g., children must be visited by the non-custodial parent when they visit the home of grandparents, or when they are involved in a public event such as a soccer game, or skating)[4].

Of the 200 court files in the total sample, 166 indicated that formal access arrangements were in place. However, only 79 percent (n=157) reported on what type of access arrangements were in place. The corresponding figures for the Hamilton and Hull court samples are 69 percent and 92 percent. A possible explanation for the differences found between the two courts may be that a higher proportion of access arrangements were informally agreed to by the parents in the Hamilton sample. Type of access information includes arrangements negotiated by lawyers as well as those informally negotiated by the partner themselves. "Missing" cases include parents for whom the issue of access was not an issue (i.e., parents of single children aged 16 and older). This category also includes family (separation) files which were not included in divorce files. These missing files are separation files which were started prior to the opening of a divorce file in the Hamilton court. In this court, only separation files which were opened following the opening of a divorce file are included in the latter file.

As indicated in Table 5, most access arrangements involve either liberal or reasonable access. Liberal access arrangements were ordered for 46 percent of the couples in the total sample, reasonable access for 40 percent, and restricted access for 13 percent. Liberal access arrangements were more common among the Hull sample (66 versus 27 percent), while reasonable access arrangements were more common among the Hamilton sample (59 versus 18 percent). Since the definitions of liberal and reasonable access are not described in the court files, it may be that the court definitions of these two

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[3] According to descriptions from the interviews, "liberal" access may include: some school nights; every second weekend; some birthdays; some major holidays; two months in the summer; any time the custodial parent agrees; any time children want. "Reasonable" access may include: every third weekend; some holidays; some major holidays; one month in the summer; any time the noncustodial parent agrees.

[4] If interview data alone were used to define restricted access, this term would refer to access arrangements on no school nights, one weekend a month, some holidays, and no summer holidays. As a supervised access parent was not interviewed, the specific access arrangements contained within this type of access arrangement cannot be described.

access arrangements differ between the two courts.

TABLE 5
Type of Access by Sample Type*

Type of Access	Total		Hamilton		Hull		Divorced		Separated	
	#	%	#	%	#	%	#	%	#	%
Liberal	72	45.9	22	27.2	50	65.8	39	41.1	31	59.6
Reasonable	62	39.5	48	59.3	14	18.4	46	48.4	12	23.1
Restricted**	20	12.7	11	13.6	9	11.8	7	7.4	9	17.3
Mixed***	3	1.9	0	0.0	3	3.9	3	3.2	0	0.0
TOTAL	157	100.00	81	100.10	76	99.90	95	100.10	52	100.00

* This table excludes cases where access was not an issue or information was missing (Total = 43; Hamilton = 36; Hull = 7; Divorced = 21; Separated = 15).

** Includes cases 9 for whom access was supervised.

*** Includes a combination of liberal, reasonable and restricted access.

Table 5 also shows that the divorced and separated samples differ with respect to access. Specifically, a larger proportion of the separated sample were given liberal than reasonable access (60 versus 23 percent), while similar proportions of the divorced sample received liberal and reasonable access (41 and 48 percent, respectively). Restricted access arrangements were ordered for 17 percent of the separated sample.

Child Support

Seventy-five percent (n=150) of the couples in the total sample wanted the issue of child support settled. Of these, 75 percent (n=113) of the non-custodial parents were ordered to pay child support. Table 6 shows that the majority of those ordered to pay child support (53 percent) were ordered to pay between $1.00 and $200.00 per month. A further 34 percent were ordered to pay between $201 and $500 a month. Only 13 percent were ordered to pay more than $500.00 per month.

TABLE 6
Monthly Child Support Payments Ordered

Value	Frequency	%	Cumulative %

$1 - $100	41	36.3	36.3
$101 - $200	19	16.8	53.1
$201 - $300	15	13.3	66.4
$301 - $400	15	13.3	79.7
$401 - $500	8	7.0	86.7
$501 - $600	4	3.5	90.2
$601 - $700	6	5.3	95.5
$701 - $800	2	1.8	97.3
$801 - $900	1	.8	98.1
$901+	2	1.8	100.0
TOTAL	113	100.00	100.00

The median monthly support order was for $200 per family. The corresponding figures for the Hamilton and Hull court samples were $150 and $300, demonstrating that the level of child support ordered was twice as high in the Hull as the Hamilton sample. It is possible that the difference in child support orders between the two courts may be due to the higher reported median monthly incomes of Hull fathers compared to that of Hamilton fathers ($2,174 versus $1,278). Since the number and ages of the children in the Hull and Hamilton samples were similar, this factor does not appear to account for the between-court difference in child support ordered.

The median monthly child support order was $225 for non-custodial parents in the divorce sample, representing 16 percent of their median monthly income. By comparison, the median monthly support payment ordered for non-custodial parents in the separation sample was $150, representing 10 percent of their median monthly income. The median monthly level of child support ordered for custodial mothers was $200. The comparable figure for custodial fathers was $15.

As shown in Table 7, fathers were the main source of child support payments ordered by the court (90 percent). This percentage was reflected in both court samples, as well as in the divorce and separation samples.

TABLE 7
Source of Child Support Payments Ordered by Sample Type*

Source of Payment	Total		Hamilton		Hull		Divorced		Separated	
	#	%	#	%	#	%	#	%	#	%

Mother	7	5.3	4	6.6	3	4.3	6	8.1	1	2.1
Father	118	90.1	56	91.8	62	88.6	66	89.2	43	89.6
Both	6	4.6	1	1.6	5	7.1	2	2.7	4	8.3
TOTAL	131	100.00	61	100.00	70	100.00	74	100.00	48	100.00

This table excludes cases where source of child support payment ordered was not an issue or information was missing (Total = 69; Hamilton = 56; Hull = 13; Divorced = 42; Separated = 19).

There was a fairly high amount of "missing" information regarding source of child support payments ordered (35 percent of the total number of files). However, "missing" cases includes cases of joint physical and split custody, as well as other cases where child support was not requested (n=12). As stated earlier, of the 200 couples in the sample, 28 had children between 16 and 30 years of age at the time their applications were filed. Therefore, child support may not have been an issue. In addition, this category includes cases where separation files were started prior to the opening of a divorce file. Only separation files which were opened after the opening of a divorce file are included in it.

Spousal Support

Spousal support payments were ordered for only thirteen partners in the divorce sample (11 percent), and three in the separation sample (4 percent). The payments ranged from one dollar to $1,600 per month. The monthly average spousal support payment was $152. The relatively small number of partners ordered to make spousal support payments is difficult to reconcile with the fact that formal spousal support arrangements were reported to be in place for 40 divorced partners (34 percent of the divorce sample).

Property

Property division was an issue that 29 percent (n=34) of the parties in the total sample wanted settled. Sixteen of them were awarded a lump sum payment, and 15 settled on a division of property. There was no information on the remaining three cases. The relatively high proportion of cases for which information was either missing or property was not an issue, plus the small number of recorded cases, raises a question about the feasibility of collecting property division data.

3.2 Interview Data

The following analysis is intended only to provide some indication about the type of information that can be obtained through interviews with custodial and non-custodial parents. Since this was a pilot project, the main objective was to determine whether this method was a feasible data collection strategy. Only 34 parents were interviewed (31 from the Hamilton court and 3 from the Hull court). Therefore, caution should be taken when interpreting the analyses of interview data. With a larger number of respondents, the findings may change substantially.

3.2.1 Background

Information on the background characteristics of the custodial and non-custodial parents who were interviewed (n=34) is more complete and detailed than that from the court files. Fifty-six percent of those interviewed were male and 44 percent were female. Their average age was 38. They are fairly well educated, with over one-half reporting some post-secondary education, a college/technical degree or a university degree. Almost one-half (47 percent) of the sample reported "working for pay or profit", 18 percent reported "caring for a family", and 18 percent reported combining caring for a family with working for pay or profit. The remainder of the sample included those looking for work, on disability and involved in "other" activities.

Wages and salaries were the main source of the total household income for 53 percent of those interviewed, although a further 29 percent refused to answer this question. Fifteen percent of the parents reported personal gross household earnings of $30,000 or more (47 percent of the respondents refused to answer this question). A majority of parents (53 percent) reported living in a privately rented house or apartment, and 29 percent resided in a house or apartment which they own with a mortgage. The house or apartment which they were living in at the time of the telephone survey was the matrimonial home for 24 percent of the parents. The remainder had moved to another home or apartment since their divorce.

Approximately one-half of the parents reported currently living with their own children from a previous (35 percent) or present (15 percent) union. The total number of children born to parents in the sample was 67. This represents an average of about two children per family. The ages of the children ranged from one to 15, and well two-thirds (66 percent) were male. Regardless of the sex or age of the child(ren), mothers were more likely than fathers to be custodial parents (88 versus 12 percent). One-half of the non-custodial parents reported living within five miles of the custodial parents' home.

For most of the parents (79 percent), their last divorce was their only divorce. The majority (56 percent) reported physically separating from their partners only once prior to the divorce, 12 percent reported separating between two and three times prior to the divorce, and 15 percent said they had separated more than four times. One-half of the sample reported separating just over three years prior to the divorce, and most filed an application for separation at that time.

3.2.2 Outcome

Child Support

The median monthly level of child support reported by sole custody mothers was $200 (with a range of $0 to $800). This amount is the same as the median monthly level of child support awards recorded in the court files. If the total amount was regularly paid, this would represent 13 percent of the reported median monthly income of non-custodial fathers who were required to make child support payments.

Fifty-three percent (n=18) of the respondents stated that child support was an issue in their

divorce, and in all cases child support payments were ordered. When child support payments were ordered, most (78 percent) parents reported that payments were made regularly and on time. Of the remaining cases (n=4), one reported irregular payments, one reported no payments, one reported that payments ceased when the payor went on welfare, and one did not answer the relevant question.

Of the five custodial mothers who said that child support was ordered, four reported that payments were made regularly and on time, and one reported that they were irregular. Only one of the custodial fathers reported asking for child support payments ($1.00 per child), and he reported that these payments were never made. Six non-custodial parents (all fathers) stated that child support was ordered of them. Four reported making child support payments regularly and on time, and two reported making no payments because they were on welfare. Three parents with joint legal custody also stated that child support was ordered, one father and two mothers. The father reported making payments regularly and on time and one mother reported paying her spouse a little because she earned more than he did. The other mother reported receiving child support payments regularly and on time.

Access

Access arrangements were described as liberal, reasonable and restricted by 33 percent, 37 percent and 14 percent of sole custodial mothers, respectively. Formal access arrangements were in place for 91 percent of them. Access was supervised for fewer than six percent of the non-custodial fathers.

3.2.3 Changes

The median length of time that parents had been separated was 3.4 years, with the largest number having separated in 1991 (44 percent). The average amount of time parents in this sample had been divorced was 1.6 years, with the largest number having the divorce granted in 1993. Since their separation/divorce, respondents reported the following changes:

- 65 percent moved to a new residence;
- 42 percent changed jobs;
- 39 percent became unemployed;
- 32 percent began living with a new partner;
- 29 percent improved their education;
- 13 percent had a serious physical illness;
- 13 percent had a mental illness;
- 3 percent had a new child(ren).

There were eight custodial and eight non-custodial parents in the interviewed sample. All non-custodial parents were male, while six custodial parents were female and two were male. Non-custodial parents reported almost twice the number of changes as custodial parents since the separation/divorce. The eight non-custodial parents reported "living with a new partner" (63 versus 0 percent) and "moving to a new residence" (100 versus 50 percent) more often than custodial parents.

Parents were also asked to answer a question about the seriousness of the conflict/disagreement

over child support, custody and access. Of the 26 parents who answered this question, 81 percent reported conflict over access to be "extremely", "very" or "serious". However, only 43 percent wanted this issue settled by their lawyers or the court. Sixty-seven percent reported that conflict over child support was "extremely", "very" or "serious" and 53 percent wanted this issue settled by their lawyers or the court. Fifty-two percent reported conflicts over custody to be "extremely", "very" or "serious" and 47 percent wanted their lawyers or the court to settle the issue.

Apparently conflict over issues and wanting a lawyer or court to settle them varies with the seriousness of the conflict and the specific issue. Almost all of the parents who reported any amount of serious conflict over child custody wanted lawyers or the court to settle the issue. On the other hand, only parents who defined conflict over child support as very or extremely serious wanted lawyers or the court to settle this issue. With respect to access, although a large percentage of parents reported some serious problems, only about one-half wanted lawyers or the court to settle the issue. In sum, the threshold for conflict (that is, before lawyers or the court are involved) appears to be relatively low for custody and child support, but high for access issues.

Turning to a consideration of changes in spousal/parental relationships following separation/divorce, it appears that communication improved. Almost two-thirds (63 percent) the parents sampled reported "very poor communication on their partner's part" as a major reason for the separation/divorce (Q25). Comments made during the interview suggest that poor parental communication was covered by this term. Approximately four years later, over three-quarters of the parents sampled (79 percent) reported communicating "very well/fairly well" with their partners on matters relating to the children (Q61), and almost one-half (47 percent) reported cooperating on all or most "matters relating to the children" (Q59). Since the questions (Q25 and Q61) do not necessarily measure the same type of communication, this finding must be interpreted with some caution. On the other hand, some things don't change. "A great deal of conflict" was cited as a major reason for the separation/divorce by 44 percent, and 38 percent reported meetings with their ex-partners four years later as "very unfriendly/not very friendly" (Q58). Similarly, 38 percent cited "partner's emotional abuse" as a major reason for leaving and four years later, 27 percent reported that their partners had emotionally abused them since the separation/divorce (Q62).

3.2.4 Satisfaction

The findings reported here are based upon analysis of answers to questions on satisfaction included in the interview. Question 63 asks: "how satisfied are you with the outcomes negotiated for you by your lawyer?". The specific outcomes referred to here are child support, spousal support, custody, access and property division. Analyses of the answers to this question reveal that satisfaction varied with the issue. Thus, 52 percent reported being "extremely/very/satisfied" with the way custody was negotiated, 45 percent with the way access and property were negotiated, and 39 percent with the way child support was negotiated. Among parents who reported being dissatisfied, almost one-third (32 percent) were "extremely/very/dissatisfied" with access arrangements, 16 percent with property division, and approximately 11 percent with custody and child support. It should be noted that these percentages are based on the responses of approximately 22 percent of the respondents for whom one or more of the above issues was relevant.

Question 64 asked "how satisfied are you with the way in which your separation or divorce was processed" by judges, lawyers and court staff. The highest proportion of "extremely/very/satisfied" reports were elicited for the parent's own lawyer and the judge (74 percent each), followed by court staff (44 percent). The highest proportion of "extremely/very/dissatisfied" reports were elicited by the partner's lawyer (36 percent), followed by the parent's own lawyer (16 percent). It should be noted that these percentages are based on relatively small numbers of responses - 15 in the case of court staff and approximately 31 in the case of judges and lawyers.

Parents were also asked how "your children feel about the amount of time they spend with your ex-spouse now" (Q65). Over one-half of them (55 percent) reported that their children were satisfied, 10 percent "wanted more time", and another 10 percent "wanted less time".

When the parents were asked: "how do you feel about the amount of time you spend with the children" (Q67), over one-half (53 percent) replied "satisfied" and another 41 percent replied "want more time" (27 parents answered this question). Of the nine custodial parents who answered this question, seven reported being "satisfied", one wanted "more time", and one wanted "less time". Of the nine non-custodial parents who answered this question, three reported being satisfied and the rest wanted to spend more time with their children. Of the eight parents with joint custody who answered this question, three reported being satisfied and five wanted more time (**this only adds to 26?**).

When the parents were asked "how do your children feel about the amount of time they spend with you now" (Q69), almost two-thirds (65 percent) replied "satisfied" and another 26 percent replied "want more time". The modal reason for wanting to spend less time with their children was "problems with my spouse" (Q68). Almost one-fifth (19 percent) of the sample cited this reason, compared with 10 percent who cited "job commitments".

When parent answers to Q65 (childrens' satisfaction with amount of time with ex-spouse) and Q69 (childrens' satisfaction with amount of time with me) are compared, a significant and perhaps obvious difference becomes evident: a higher proportion of parents reported that their children are more satisfied with the time they spend with them, or want to spend more time with them, than with their ex-spouses. The comparative figures are 91 percent (children satisfied/want to spend more time with me) and 65 percent (children satisfied/want to spend more time with ex-spouse).

Analysis of interview data (Q64 and qualitative questions, Q71, Q72, Q73) reveal that, as a group, non-custodial fathers are less satisfied with the court and lawyers, than sole custodial mothers are. The award of sole custody to mothers is one target of non-custodial father's dissatisfaction. Delay, expense and acrimony are others. Problems with access were not mentioned by either sole custodial mothers or non-custodial fathers.

3.3 Summary

With respect to background factors, one of the major findings has to do with parental differences in income in the Hamilton and Hull court samples. Specifically, the median annual income of mothers in the Hamilton sample is over $1,000 higher than the median annual income of fathers in the same sample ($16,764 versus $15,336), whereas the median annual income of mothers in the Hull

sample was approximately one-half that of Hull fathers ($13,380 versus $26,088). Differences in gender employment patterns in the two cities probably explain this difference, but we have no direct evidence of this.

Another interesting finding has to do with income differences among custodial and non-custodial mothers and fathers. Specifically, the reported median annual income of non-custodial mothers ($18,720) is higher than that of custodial mothers ($15,432).

The findings on custody indicate that joint legal custody is more likely to be granted in the Hamilton than in the Hull family court. Thus, 14 Hamilton couples (16 percent) and no Hull couples were granted joint legal custody. As indicated earlier, differences in the cultures of the two courts probably account for this finding.

The impact of different court cultures does not, however, appear to be evident in the case of access. The Hamilton court has a court-based mediation service in which shared parenting is a significant value. The judges in this court are very supportive of mediation. For these reasons, one would expect a higher proportion of Hamilton parents to report liberal access arrangements because they more closely approximate the ideal of shared parenting. Yet, the findings indicate that a far higher proportion of Hull parents report liberal access arrangements (66 percent versus 27 percent for Hamilton parents). However, as mentioned earlier, it may be that the court definitions of "liberal" and "reasonable" access arrangements differ between the two courts, and that these two terms are interpreted similarly.

The findings also indicate that the differences in the amount of child support ordered for Hamilton and Hull fathers is significant. Specifically, the level of child support ordered for Hull fathers is twice as high in the Hull sample as it is in the Hamilton sample ($300 versus $150 per month). The greater expenses-over-income gap for Hull than for Hamilton mothers ($620 versus $170) may play some part in accounting for this finding. Furthermore, higher incomes among non-custodial fathers in Hull is a likely contributor.

4.0 FEASIBILITY

4.1 Court Data

In this study, the national Central Divorce Registry (CDR) maintained by the Department of Justice was used as a sampling frame for the selection of divorce files to be included in the sample. The central registry number and the court file number are recorded in the top right hand corner of the Registration of Divorce Proceeding Form. This form was present in all the divorce files we examined. The use of the CDR list as a sampling frame for the selection of a court file sample stratified by month/year and presence of dependent children is eminently feasible for these reasons:

- it is reliable (i.e., it includes all cases with children and no case without children);
- it is speedier and less costly than the alternative of selecting a sample on the basis of examining each and every file; and,
- the error rate with respect to month and year in which applications were filed is very low (i.e., two errors in 200 cases).

It should be noted that the actual amount of time involved in pulling a file varies with the court. Thus, in the Hamilton Court it took longer to find the form on which the Central Registry Form (CRF) number and the court file number are recorded because the forms in the file - containing as many as fifteen different forms - are not found in a consistent order. The relevant form is usually found after a search. In the Hull family court, the file contents are consistently ordered. As the location of the Registration of Divorce Proceeding form is known, little or no time need be spent in searching for it. The combination of a computerized court and file contents kept in a consistent order decreases the time and expense involved in drawing a stratified probability sample of court files (cases).

This conclusion also applies to the selection of a stratified probability sample of domestic relief (separation) files. Compared with the sample of divorce files, selecting the sample of domestic relief (separation) files took longer and cost more per file. The major reasons for this were the absence of a central registry domestic relief (separation) list, and the research design requirement of selecting a sub-sample of common-law couples. Each and every file had to be examined in order for the separation (married) and separation (common-law) samples to be drawn from the domestic relief files in the two courts.

The time and cost involved in selecting a sample of cases is even higher for paternity cases. In addition to the absence of a central registry list and disordered file contents, paternity files are relatively rare. Based on our experience, we would have had to review court files covering a period of six months in order to find ten paternity cases.

In this connection, it is relevant to note that CDR numbers refer to applications. The findings of this pilot project indicate that the two year post-divorce measurement criterion[5] was met for 35 percent

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[5] Researchers have found that it takes approximately two years for the impact of court orders and marital dispute resolution processes on the quality of post-divorce family life to work themselves out [see Joan Kelly (1990) Mediated and adversarial divorce resolution process: An analysis of

of the applications filed in October 1992. Assuming a linear sample attrition trend, we estimate that 58 percent of the sample would have met the two year post-divorce criterion had applications in October 1991 been selected. Furthermore, it may not be unreasonable to expect 75 percent of the sample to meet this criterion if a longer time frame (e.g., three months) is allotted for interviews, and some of the steps described below are implemented.

The two year post-divorce criterion can also be met by conducting a prospective study. Here, the courts included in the national sample would need to be asked to cooperate in ways that facilitate the collection of data from divorce court files and divorced couples. These include:

- ensuring that case forms within files are filed in a consistent order;
- including in divorce files related family (separation) files before and after the final divorce was granted;
- including the file number of associated "family files" (separation) in the divorce card file (or computer entry) [or include in the sample only those divorce files for which related separation files are available];
- ensuring that detailed information on the names and addresses of applicants and respondents (and their lawyers) is included in applications and answers;
- including special file markers used for tracking the court careers of spouses included in the sample;
- presenting lawyers with a card asking for their cooperation in contacting clients and indicating that the court is participating in the study;
- asking lawyers to ensure that their clients answer all of the questions included in the forms they complete; and,
- informing research staff of the dates on which lawyers and/or their clients will be in court (this could be done by giving research staff a copy of the weekly/monthly calendar).

Taken together, these steps would ensure consistent and more complete data collection and facilitate comparison across courts and across time. Moreover, it would markedly increase the proportion of couples who are interviewed. Increased costs, sample attrition and the length of time taken to complete a two-year study (3 years), are some of the disadvantages associated with completing a prospective longitudinal study.

The sampling frame for the divorce files (Central Divorce Registry) and the sampling procedures used in this study can be used in a national study of the court processing of such cases. Based on the results of this pilot project, such a study is quite feasible. However, in order to increase the social utility and stability of the results of a national study, the sample of files selected must be stratified by year of completion of the initial separation/divorce proceedings. More specifically, the sample should be a sample of two year post-divorce files. Research evidence indicate that this is the minimum amount of lapsed time necessary to reliably assess the longer term impact of court processing on the quality of

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post-divorce outcomes. Final report prepared for Research in Dispute Resolution.] Where this criterion is met, the findings are likely to be stable.

family life among ex-partners and their families[6]. However, it should be noted that stratifying by year of completion may be more time consuming (as files are sorted by date of application).

In addition to stratifying the Central Registry Form sample by year of application, it should also be stratified by age of dependent children (i.e., those under 16 at the time of the application). This would markedly reduce the proportion of "does not apply" cases for questions relating to support, custody and access.

An argument could be made that by stratifying the sample in the way suggested could increase sample attrition, since divorced couples often change jobs, residences and telephone numbers, remarry and leave the province. For these reasons ex-spouses who have been divorced for two years may be more difficult to contact than those who have been divorced for only one year. Although this argument is valid, it is not compelling for four reasons.

First, a review of the interview data indicates that even under the very severe time constraints under which we worked, we were fairly successful in completing interviews with spouses who had been divorced for two or more years. Thus, of the ten spouses selected from the Hull court files, six were granted a divorce in 1992 and four in 1993. Interviews were completed with three of the six who divorced in 1992 (one in November, one in December and one month unstated). In other words, all three of the Hull court spouses we interviewed had been divorced for two years. Of the 31 Hamilton spouses who were interviewed, 10 of 19 were divorced in 1992, 15 of 16 were divorced in 1993 and five of five were divorced in 1994[7]. The proportion of two years post-divorce couples who are interviewed can be increased by allocating a minimum of three months per interview for every 50 couples in the sample. This estimate is based on the research of Ellis (1994) and Kelly (1990).

Second, while a larger proportion of couples may be interviewed at one year post-divorce, the results are likely to be unstable (Kelly, 1990). Unstable results do not provide as sound an empirical basis for policy decisions as more stable results based on two year post-divorce data.

Third, if family courts cooperate in the ways indicated earlier, a larger proportion of two year post-divorce couples can be contacted and interviewed.

Fourth, the proportion of contacted couples who are interviewed can be increased by call-backs and paying for their participation (e.g., $15 per 45 minute interview).

The use of our fairly exhaustive court file data form (Appendix B) indicates that missing data is a

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[6] See Joan Kelly (1990). Mediated and adversarial divorce resolution process: An analysis of post-divorce outcomes. Final report prepared for Research in Dispute Resolution. See also D. Ellis and N. Stuckless (forthcoming). Violence towards women and other outcomes: The impact of mediation and lawyer negotiations. Thousand Oaks; CA: Sage.

[7] These figures sum to 30 because one spouse did not answer the "date divorce granted" question.

serious problem with respect to a few variables. More specifically, as illustrated in Appendix D, the majority of data were missing for mothers and fathers education (98 and 100 percent), occupation (91 and 90 percent) and residence (90 percent each). In addition, large proportions of data were missing for mothers and fathers employment (73 and 69 percent), income (51 and 62 percent) and expenses (52 and 64 percent). Missing data rates also varied between 50 and 60 percent for a number of other variables, but these were appropriately designated as "does not apply" rates. For instance, 93 percent of the data were missing for the variable "date started cohabitation", but only two couples in the sample had been cohabiters. Apart from the biographical and income/expenses variables noted above, the true missing data rate was relatively low for the other variables included in the court file data form. This conclusion also applies to data collected from the separation files.

Plans to collect data from court files via the use of the court file form should be made with the following considerations in mind:

First, information included in divorce and domestic relief (separation) card files is not always reliable. The central registry form numbers and application dates are reliable, but information on issues in contention, presence of children, marital status of spouses (registered union versus common law) have to be validated via the file itself. This is not a problem in computerized courts.

Second, family courts, especially across jurisdictions, vary in the type of information they contain. The Hamilton family court includes information on enforcement of orders and applications for restraining orders and peace bonds, but the Hull court does not. The interview questionnaire provides such information for parents in both court samples.

Third, "file collapsing" may vary between courts. Thus, where a divorce file and a separation file have been opened for the same case, one court may collapse the latter into the former only if the divorce file was opened earlier. Another court may do this regardless of timing. A third may never collapse a separation file into a divorce file. The rule to follow is to look for a separation file whenever it is not included in a divorce file. An even better rule to follow is to always pull and examine (cross-check) both divorce and separation files in all relevant cases. This, however, may be very time consuming.

4.2 Interview Data

The Hamilton and Hull court divorce files for October 1992 were used as a sampling frame for selecting the interview sample. The feasibility of this sampling procedure varies with the family court forms from whose files couples to be interviewed are selected. The Hamilton court includes the full names, addresses and telephone numbers of applicants and respondents in a relatively high proportion (about 80 percent) of the cases. This information is recorded in a much smaller proportion (about 25 percent) of the Hull court files. As a result, a much smaller number of divorced couples in the Hull court samples could be contacted by telephone and asked to participate in the study.

The relatively small number of Hull partners who were contacted and agreed to participate in the study is a reflection of the fact that the interviews had to be completed within a very short period of time (two weeks). Interviewers in Hamilton had approximately six weeks to complete their interviews.

As a result, their completion rate was much higher (39 percent versus 15 percent). Note however the relatively small number (two) of couples who were interviewed. In order to increase the proportion of couples who are interviewed, not only must a longer interview period be established, but a larger proportion of research funds must be allocated to data collection. One reason for this is the cost of conducting telephone interviews with partners who have left the area or the province/territory. Another reason has to do with the additional time and effort involved in persuading both partners to cooperate, when one partner knows the other is also being interviewed. Some ask and, when they do, they must be told. In sum, the advantages of interviewing couples must be weighed against the increased time, effort and cost involved in attempting to complete couple interviews. In a prospective study, this problem is not as serious because the parties will have been contacted earlier and a relationship established.

Lawyers names and addressed are included in all court files, so why not contact the lawyers of Hull partners and ask them for the names and addresses of their former clients? One problem with this approach is that the name and/or telephone number of the respondent's lawyer is not invariably included in court files. This information is usually only available for the applicant's lawyer. In any case, this alternative may not be feasible because few local lawyers are likely to provide information on former clients[8]. A more feasible option may be to include in the sample of courts selected, only those which have information on the full names, addresses and/or telephone numbers of applicants and respondents in their divorce files. This may adversely influence the external validity of the study, but will markedly improve the chances of conducting telephone interviews with applicants and respondents in family court divorce files.

The external validity of a study refers to the generalizability of its findings. If one is only interested in generalizing findings based on the collection and analysis of data from a probability sample of family courts to the population of family courts in Canada, then a national study replicating the procedures used in this study is feasible. Including the objective of interviewing a probability sample of custodial and non-custodial parents drawn from court files for the purpose of generalizability to a population of parents in Canada, increases the social policy significance of the study, but may decrease its feasibility, albeit possibly to an acceptable level.

The feasibility of achieving the objective of interviewing custodial and non-custodial parents drawn from court files can be increased by doing what was suggested earlier (i.e., stratifying the court sample). Another option is to select a national probability sample of family courts and then seek the cooperation of the court and the local family bar in obtaining the names, addresses and telephone numbers of applicants and respondents who were their clients, but about whom this information was not included in court files. As indicated earlier, this did not work in Hamilton (Family Mediation Pilot Project), but local circumstances (e.g., negative reactions to provincial government policies that had reduced or threatened to reduce their income), and the nature of the project (i.e., an evaluation of mediation versus lawyer negotiations) may have combined to elicit a reaction that may not be found elsewhere.

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[8] See Ellis, D. (1994). Family Mediation Pilot Project. Report submitted to the Attorney General of Ontario.

Options that make the interview phase of the project more feasible are worth pursuing for a number of reasons. First and foremost, interview data contribute greatly to the internal validity of the study. That is to say, interview data can be used as a cross-check on court file data. Second, interview data provide information of interest to policy makers that is not present in court files. Examples include more complete information on biographical data, as well as data on satisfaction, impact on children, private settlements, reasons for not returning to court and the implicit rationale for setting child support levels. Third, these data help operationalize court orders. For example, although access orders designate access arrangements as "liberal" or "reasonable", the meaning of these designations are not given. Interview data describe and expand upon the specific access arrangements designated by these terms.

In connection with collecting interview data, we repeat the following caveat: the longer the observation period (i.e., time between completing the separation/divorce process and conducting the telephone interview), the more difficult it is to contact interview subjects, but the more reliable and policy relevant are the data collected.

It is relevant to note that, in the present study, the failure to contact divorced partners was a function of both time since the divorce was granted (Hamilton) and lack of relevant information in court records (Hull). Our suggestions directly address both problems. Moreover, one specific recommendation - to include all family files (including previous separation files) in the final divorce files - will facilitate data collection and markedly reduce the number of missing cases. Finally, in addition to increasing the internal validity of the study, the suggestions we made will also increase its external validity (generalization). The logic is as follows: external validity is a function of both probability sampling and sampling size. Probability sampling can be included in the research design, and our suggestions, if followed, will increase the size of the sample. More specifically, it will increase the proportion of selected couples who are interviewed.

The telephone interview apppears to be a very feasible method of collecting data from custodial and non-custodial parents. Even with an average of six call-backs per completed interview, it is less expensive than face-to-face interviews. Moreover, compared with the latter, it has been argued that telephone interview data are equally reliable and valid[9]. This remains true for highly sensitive and personal information.

The interview questionnaire developed for this study is a feasible instrument for collecting various types of data on experiences and feelings associated with separation/divorce. The questionnaire takes about 45 minutes to administer and is easily understood by English and French speaking respondents. Three hundred and ten specific questions were included in the questionnaire administered to partners in the interview sample. Missing data problems were associated with some of them. Unfortunately, important questions about income (Q5, Q6 and Q7) were among them. The truly missing data rate for these questions was approximately 33 percent. The missing data rate was higher

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[9] Smith, M. (1985). The case for surveys by telephone. La Marsh Report #12. La Marsh Research Centre on Violence and Conflict Resolution, York University.

(45 percent) for questions about dates separation or divorce applications were filed (Q28) and separation agreements were signed (Q29). Respondents simply could not remember. These dates, it should be noted, are available in the court files. Respondents also found it difficult to remember the time taken to "try and settle issues ourselves" (Q36). The result was a missing data rate of 65 percent. Finally, most respondents were unwilling (or unable) to discuss child support payments for individual children.

Qualitative data were examined with a view to determining why parents were so reluctant to answer specific questions relating to child support payments. These data were not enlightening. Specifically, no reasons were included in them. As no probes were included relating to the questions on child support payments for individual children, these could not be analyzed. Discussions with the interviewers indicated that the reluctance to answer this question was part of a more general reluctance to answer questions relating to financial matters. Future questionnaires should include probes. This not only provides reasons for not answering the question or for answering it in a particular way, it also facilitates answering the question by those who were initially reluctant to do so. The response rate can also be increased by returning to the question later in the interview. The response rate may also be increased by changing the format. That is to say, a question on total monthly support payments would be asked, followed by a question on whether an equal/unequal amount is paid for each child. If the answer is unequal, then a more specific child-amount focused question could be asked.

5.0 CONCLUSION

Based on our experience of conducting this pilot project, and on the research objectives that were achieved, we conclude that an integrated (court and interview data), retrospective or prospective national study of a similar nature is very feasible. A sampling frame for divorce (although not separation) files is in place, a complete list of courts within and across provinces is available, court personnel appear to be very willing to cooperate, development costs for research instruments (court file form and interview) have been paid for, computer programmes for data entry and analysis have been created, and we have shown that a relatively complex pilot project can be completed within a relatively short period of time (three months) and for a relatively small amount of money.

Our conclusion about the feasibility of a national study is also grounded in the quality of the data collected. Specifically, court file data (separation and divorce) on types of custody and access orders, child and spousal support arrangements had very low missing data rates. These data are also reliable because they are consistent with answers provided by partners who were interviewed. Missing data rates were relatively high for parents income and expenses in both court files and interviews. More pretesting may have to be done in order to formulate questions in ways that will increase the response rate for parents income and expenses. Specific questions on child care expenses should be included among the latter.

The missing data rate for biographical data (e.g., occupation, residence, education) was very high for the court file data, and low for the interview data. In a fully integrated study, that is, one in which court file and interview data on the same partners (or couples) is available, the missing court file data will be picked up in the interviews, but if court files are the sole source of data, then biographical data on most parents will not be available.

Interview data on custody, access, child and spousal support arrangements provide more detailed information than court file data, and they also have relatively low missing data rates. Data on satisfaction with these arrangements, and with the court process and decision are included among the interview, but not court file data. Changes in custody, access and support arrangements are reported in both court files and interviews, but the latter provide more detailed reasons for them. In sum, not only does the interview provide good quality data on a range of variables central to this pilot project, but relatively few of those who were contacted refused to complete an interview.

Finally, the feasibility of a prospective national study would be increased if it was confined to divorce files. Not only does a frame for selecting these files exist, but in a number of cases, divorce files contain separation files, whereas the reverse is never true. However, restricting a study to only divorce cases would provide an incomplete picture of the nature of custody, access and support arrangements in Canada, since a large number of cases are contained within domestic relief (separation) files.

APPENDIX A

Sampling Procedure

SAMPLE: REGISTERED UNION COUPLE

START: Central Registry File #

↓

Go to divorce card file cabinet or computer
Pull card with matching file # or matching file
Check: a) match between CRF file # and card #
b) action commenced date
c) presence of children
d) registered union spouses as applicant and respondent

↓

Go to divorce files
Find matching divorce file number
Check again: a) match between CRF file # and card #
b) action commenced date
c) presence of children
d) pull file
Check: e) is there an associated separation file?
if yes, pull it too, commence coding both
if no, commence coding divorce file

NOTE: If a divorce file was opened earlier than a separation file, the former will be included in the latter file.

CODING: First entry: date of application
Last entry: date of final order(s)
In between: code following attached Court File Form

OUTCOME: The court career of each case where children were present that was initiated in October of 1992

SAMPLE: OTHER (DOMESTIC) RELIEF REGISTERED UNION COUPLE

START: Separation file card cabinet/separation file

Check: a) action commenced date
b) presence of children
c) applicants and respondents who are male and female

↓

Go to separation files
Find matching separation file number
Check again: a) action commenced date
b) presence of children
c) registered union spouses
d) pull file

CODING: First entry: date of application
Last entry: letter of settlement, separation agreement
In between: code following attached Court File Form

OUTCOME: The court career of each registered union other relief case where children were present that was initiated in October 1992

SAMPLE: COMMON-LAW COUPLES

START: Separation card file cabinet/separation files
Check: a) action commenced date
b) presence of children
c) applicants and respondents who are male and female

↓

Go to separation files
Find matching separation file number
Check again: a) action commenced date
b) presence of children
c) common-law spouses as applicants and respondents
d) pull file

CODING: First entry: date of application
Last entry: letter of settlement, separation agreement
In between: code following attached Court File Form

OUTCOME: The court career of each common-law case where children were present that was initiated in October 1992

SAMPLE: PATERNITY CASES

START: Separation file card cabinet/separation files
Check: a) action commenced date closest to Oct. 1992
b) applicants and respondents, who are male and female spouses, (common law and/or registered union)

↓

Go to separation file
Same checking and coding procedures used for registered union other relief and common-law couples

OUTCOME: The court career of case where paternity is the only, or also, an issue

APPENDIX B

List of Variables for Court Files

1. Case Number: _____ (Please leave blank)

2. Court: a: location: Hamilton___ Hull___
   b: type: Unified___ General___ Provincial___

3. File numbers: 3a. V___ 3b. D___ 3c. CDR___
   (Divorce) (Domestic) (Central Divorce Registry)

4. Type of application: 4a. separation___ 4b. divorce___
   4c. civil___ 4d. other___

5. Date first application filed: __/__/__
   yy/mm/dd

6. Contents of file:
   a. petition for divorce: yes___ no___
   b. statement of claim: yes___ no___: b1. number___
   c. notice(s) of application(s): yes___ no___: c1. number___
   d. answer(s): yes___ no___: d1. number___
   e. affidavits: number___
   f. notice(s) of motion(s): yes___ no___: f1. number___
   g. separation agreement: yes___ no___
   h. record(s): yes___ no___: h1. number___
   i. Registrar's certificate: yes___ no___
   j. divorce decree: yes___ no___: date __/__/__
   yy/mm/dd
   k. CDR form: yes___ no___
   l. family support plan order (Hamilton only): yes___ no___
   m. financial statements: m1. father___ m2. mother___
   n. Minutes of Settlement: yes___ no___
   o. Notice of First Meeting: yes___ no___
   p. other_____

CASE INFORMATION

7. Applicant: Mother___ Father___

8. Type of Relationship: legal marriage___ common-law___
   never cohabited___

9. Date: a. of marriage (yy/mm/dd) __/__/__
   b. if not married together (yy/mm/dd) __/__/__

10. Date of separation: (yy/mm/dd) __/__/__

11. Date divorce took effect (yy/mm/dd) __/__/__

12. Reason for divorce: Separated over one year___ adultery___
    cruelty___

13. Evidence of conflict:
    a. contested divorce: yes___ no___
    b. parental conflict: yes___ no___
    c. spousal conflict: yes___ no___

    ISSUES: i. (divorce act) child support___
    ii. spouse support___
    iii. (Family Law) child support___
    iv. spouse support___
    v. custody___
    vi. custody under Children Reform___
    vii. access___
    viii. access under Children Reform___
    ix. division of property___
    x. excl. possession___
    xi. annulment___
    xii. indexing___
    xiii. restraining from harassing or communicating___
    xiv. restraining from removing property___
    xv. court costs___
    xvi. other___
    xvi. allegations of abuse: yes___ no___

14. Restraining orders: yes___ no___ 14a. number___

15. Peace bonds: yes___ no___ 15a. number___

16. Alcohol/drug use: yes___ no___

17. Mental illness: yes___ no___

18. Negotiations:
    a. mediation: yes___ no___
    b. use of assessments: yes___ no___
    c. lawyer: yes___ no___

d. type of lawyer: legal aid___ private___

19. Outcome Information:

a. formal custody arrangements: yes___ no___
   i. where found: divorce decree___ separation agreement___
   civil agreement___ other_____
   ii. form of custody: sole___ joint legal___
   joint physical___ split___
   iii. custodial parent: mother___ father___
   stepmother___ stepfather___

b. formal access arrangements: yes___ no___
   i. where found: divorce decree___ separation agreement___
   civil agreement___ other_____
   ii. type of access: liberal___ restricted___
   iii. supervised? yes___ no___
   iv. other access arrangements?_____

c. formal child support arrangements: yes___ no___
   i. where found: divorce decree___ separation agreement___
   civil agreement___ other_____
   ii. level of child support ($ per month _____)
   iii. other payments_____
   iv. Parenting plan? yes___ no___

d. formal spouse support arrangements: yes___ no___
   i. where found: divorce decree___ separation agreement___
   civil agreement___ other_____
   ii. level of spouse support ($ per month _____)
   iii. limitations:_____

e. formal property settlement: yes___ no___
   i. where found: divorce decree___ separation agreement___
   civil agreement___ other_____
   ii. type: lump sum___ property___ $_____
   iii. limitations:_____
   iv. Parenting plan? yes___ no___
   _____

f. arrangements include:
   i. dispute resolution clauses?___
   ii. parental options?___
   iii. notification re: mobility in agreements?___

g. registered with provincial maintenance enforcement programme?

child___ spouse___ both___

h. court enforcement of existing orders: yes___ no___
i. number:___
ii. type: custody___ access___
child support___ spousal support___

i. motions for varying orders or requestion new orders:
i. number:___
ii. type: custody___ access___
child support___ spousal support___
iii. patterning:_____

PERSONAL INFORMATION (primarily from avidavit or answer):

20. Mother:

a. Name_____

b. Type of residence: owner___ rented___ other___
b1. state-subsidized___

c. Date of Birth: __/__/__
yy/mm/dd

d. education:_____

e. income:_____

f. occupation:_____

g. employment: stable employed___ stable unemployed___

h. presence of new partner: yes___ no___

21. Father:

a. Name_____

b. Type of residence: owner___ rented___ other___
b1. state-subsidized___

c. Date of Birth: __/__/__
yy/mm/dd

d. education:_____

e. income:_____

f. occupation:_____

g. employment: stable employed___ stable unemployed___

h. presence of new partner: yes___ no___

22. Children:

a. Number___

b. Child1 b1: sex M___ F___ DOB__/__/__
c. Child2 b2: sex M___ F___ DOB__/__/__
d. Child3 b3: sex M___ F___ DOB__/__/__
e. Child4 b4: sex M___ F___ DOB__/__/__
f. Child5 b5: sex M___ F___ DOB__/__/__

g. Stepchildren: yes___ no___
g1. Included in arrangements? yes___ no___
g2. If so, number: ___
g3. Stepchild1 sex___ DOB__/__/__
g4. Stepchild2 sex___ DOB__/__/__
g5. Stepchild3 sex___ DOB__/__/__

APPENDIX C

Interview Questionnaire

Date of Interview

_____

Subject #
Court: Hull..... 1
Hamilton 2

BACKGROUND

Q1. Sex: Male _____ 1
Female _____ 2

Q2. Date of birth: Month _____ Year
Age

Q3. What is the highest level of education you have completed?

Less than high school 1
High school diploma 2
Some post-secondary education..... 3
College/technical degree..... 4
University degree, undergraduate..... 5
University degree, graduate 6
Other? (What?) 7

Q4. What do you consider to be your current main activity? (for example, working for pay, caring for family. Check one only.)

Caring for family..... 1
Working for pay or profit..... 2
Caring for family and working for pay or profit..... 3
Going to school..... 4
Recovering from illness/on disability..... 5
Looking for work..... 6
Retired..... 7
Other (Specify) 8

If not working for pay or profit, go to Q 8

Q5. Thinking about your total household income, what was the main source of income? (Check one only).

Wages and salaries	1
Income from self-employment	2
Dividends and interest on deposits and savings, stocks, mutual funds, etc.	3
Unemployment insurance	4
Worker's compensation	5
Benefits from Canada or Quebec pension plan	6
Retirement pensions, superannuation and annuities	7
Old age security and guaranteed income supplement	8
Child tax benefit	9
Provincial or municipal social assistance or welfare	10
Child support	11
Alimony	12
Other income (e.g. rental income, scholarships, other government income, etc.)	13

Q6. Into which of the following groups does your personal gross household (per year) income fall?

Less than $15,000	1
$15,000 - $29,999	2
$30,000 - $59,999	3
$60,000 or more	4
Do not know	5
Refuses to answer	6

Q7. What is your gross annual household income (count your own and partner's income if applicable and include income from all sources i.e. job, welfare, mother's allowance, worker's compensation, welfare, etc. Do not count child support payments received as income).

Less than $15,000	1
$15,000 - $29,999	2
$30,000 - $59,999	3
$60,000 or more	4

Do not know 5
Refuses to answer 6

Q8. a) Which of the following best describes where you live at the moment.
Present Accommodation (please circle number)

A house or apartment owned with a mortgage 1
A house or apartment owned without a mortgage 2
A house or apartment rented privately 3
A house or apartment rented from Ontario Housing 4
The home of a friend or relative where you live without paying rent 5
Other (please specify) 6

b) If you now own a house or apartment, was this your matrimonial home?

Yes 1
No 2

Q9. Have you had to move from one house to another since your divorce?

Yes 1
No 2

If **Yes**, how often? _____ times

Q10. Roughly how far away from you does your ex-partner currently live?

Less than 2 miles away 1
2 - 5 miles away 2
6 - 100 miles away 3
More than a day's drive away 4

Q11. At the present time, who are you living with? (Check as many as apply)

My own child(ren), previous union 1
My own child(ren), present union 2
Stepchild(ren), previous union 3
Stepchild(ren), present union 4
New partner 5
Parent(s) 6

Other relative(s) 7
Friend(s) 8
Other (whom?) 9

Q12. How many children do you have from this union and/or a previous union (enter numbers on lines)

Present union _____

Previous union

Q13. List the personal details about each of the children ages 16 or less from a present/previous union beginning with the oldest child and ending with the youngest, and code who has custody now.

Children of Present Union					**Children of Previous Union**				
Children	*Sex M/F*	*Age (nearest year)*	*Custody Now*	*$ Amount*	*Children*	*Sex M/F*	*Age (nearest year)*	*Custody Now*	*$ Amount*
1					1				
2					2				
3					3				
4					4				
5					5				

CODES:

1 Mother
2 Father
3 Joint custody (shared parenting)
4 Grandparents
5 Other relative
6 Child living independently
7 Foster Parent
8 Family friend

Q14. What is your present marital status?

Married 1
Married common-law 2
Cohabiting (with a new partner) 3
Single 4
Other (what?) 5

Q15. What was your marital status prior to your divorce/separation?

Married (registered)	1
Married (common-law)	2
Cohabiting (had lived together for 3 or more years)	3
Other (what?)	4

Q16. Was your last divorce your only divorce?

Yes	1
No	2

Q17. Prior to your divorce (or last one if more than one) how many times had you physically separated from your partner (i.e. left the marital residence to live elsewhere)

Once	1
Twice	2
Three times	3
Four times	4
More than four times	5

HISTORY

Q18. How old were you and your partner when you married?

He _____ years old
Partner _____ years old

Q19. In what year did you marry or start living with the person you separated from/divorced in 1992?

Month _____ Year

(month - 01 to 12; year - last 2 digits)

Q20. Who made the decision to separate?

Me 1
Partner 2
Both 3

Q21. When did you and your partner start living in separate residence on a permanent basis?

Month _____ Year

Q22. Who moved out from the family home?

Me 1
Partner 2
Both 3

Q23. Where did the children live when you first moved to a separate residence on a permanent basis?

Me 1
Partner 2
Both 3
Other (what?) 4

_____

Q24. Some couples who separate/divorce seem to have serious problems right from the start, others have them only a year or so before they separate. Into which group do you fall?

Right from the start 1
About half-way through 2
Only in the last 1 or 2 years 3
Not sure 4

Q25. Couples who separate/divorce do so for a number of reasons. Are any of the following included among the major reasons for your separation?
(Check as many as apply)

A great deal of conflict 1
My physical abuse of partner 2
Partner's physical abuse of me 3
My emotional abuse of partner 4
* Partner's emotional abuse 5
My drug/alcohol problems 6
Partner's drug/alcohol problems 7
Very poor communication on my part 8
Very poor communication on partner's part 9
My Sexual problems 10
Partner's sexual problems 11
** Being taken advantage of by partner 12
I took advantage of my partner 13
Partner's mental problems 14
My mental problems 15
My adultery 16
Partner's adultery 17
Other (what?) 18

* being put down, called names, humiliated
** taking and never giving, lying in order to get me to do things I did not want to do

Q26. When did you or your partner first approach a lawyer to begin legal separation proceedings? If you did not use a lawyer, check does not apply.

Month _____ Year
Does not apply 8

Q27. Were you and your partner still living together when you or your partner first approached a lawyer? (circle one)

Yes 1
No 2

Q28. When did you or your partner (or your lawyer) file an application for separation and/or divorce in the family court?

Separation: Month _____ Year

Divorce: Month _____ Year _____

Q29. When did you first sign a separation agreement?

Month _____ Year

Q30. When was your divorce granted by the court?

Month _____ Year

Q31. Approximately how many times did you actually go to court in connection with the legal processing of your separation and/or divorce?

About _____ times

Q32. When was the last time you went to court in connection with some matter related to your separation or divorce?

Month _____ Year

ISSUES

Q33. Separating/divorcing couples have to settle matters relating to a number of issues. Which of these issues did you have to settle? (circle as many as apply)

Child support 1
Spouse support 2
Custody 3
Access 4

Property division 5
Paternity 6

Q34. Did you try to settle one or more of these issues between yourselves? (circle one)

Yes..... 1
No..... 2

Q35. Which of these issues did you try to settle on your own (i.e. just between yourselves)? (circle as many as apply)

Custody 1
Access 2
Support-child 3
Support-spouse 4
Property division 5
Paternity 6

Q36. If yes, approximately how long did you try to settle these issues between yourselves before contacting a lawyer?

Custody: about ____ months
Access: about ____ months
Support-child: about ____ months
Support-spouse: about ____ months
Property division: about ____ months
Paternity: about ____ months

Q37. If you did <u>not</u> try to settle one or more of these issues on your own, why didn't you try?

Partner not interested..... 1
I was not interested 2
It would lead to a major argument 3
Could not discuss things rationally
with my partner..... 4
I wanted a lawyer involved 5
Partner wanted a lawyer involved..... 6
Partner did not want to separate 7
I did not want to separate..... 8

Other (what?)..... 9

Q38. In your case, how serious was the conflict/disagreement over each of the issues you wanted settled? (answer for each)

	Extremely Very Serious 5	Serious 4	Not Very Serious 3	Not at all Serious 2	Serious 1
Child Support	____	____	____	____	____
Spousal Support	____	____	____	____	____
Custody	____	____	____	____	____
Access	____	____	____	____	____
Property Division	____	____	____	____	____
Other (what?)	____	____	____	____	____

_____

Q39. Which of these issues did you want settled for you by your lawyer or the court? (Circle each one that applies)

Custody 1
Access 2
Support-child 3
Support-spouse 4
Property division 5
Paternity 6

Q40. Approximately how long did it take your lawyer to settle these issues? (Enter number of months on line)

Approximately _____ months

Q41. Did you attempt to settle any of the issues by participating in the process of mediation? (check one)

Yes 1
No 2

If **NO**, go to Q44

Q42. If **yes**, which issues did you bring to mediation? (Circle those that apply)

Custody 1
Access 2
Support-child 3
Support-spouse 4
Property division 5
Paternity 6

Q43. Did you participate in mediation before or after you contacted a lawyer?

Before 1
After 2

OUTCOMES

Q44. With respect to each of the issues you wanted settled, how did you want them settled i.e. what did you want? How were these issues settled i.e. what arrangements were actually made (what did you get)?

	Wanted	Got
a) Child support (monthly) payments (Total)	$_____	$_____
Did not ask for child support	_____ 8	_____ 8

b) What monthly amount in child support payments did you request for each of the children? (Interviewer: Enter $ amount per child in the appropriate space on the extreme right hand side of the table on Page 4 <Q13>).

b) Spouse support (monthly) payments	$_____	$_____
Lump sum payment	$_____	$_____
Did not ask for spouse support	_____ 8	_____ 8

c) How regular have the maintenance child support payments been?

Regular and on time 1
Regular but late sometimes 2
Irregular (i.e. miss some months then start again) 3
No payments for the last month 4
No payments for the last 3 months 5
No payments for the last 6 months 6
No payments for the last year 7
Payments never been received 8
Payments stoped due to a change in
circumstances (e.g. court order, death or payor, etc.) 9
Don't know 10

d) If you did not check 1, why have the payments not been regular?

e) Property: Which of the following properties or assets did you want shared? (circle only those that apply)

House (matrimonial residence)	___ 1	___ 1
Car, boat, cottage etc.	___ 2	___ 2
Stocks, bonds, pensions	___ 3	___ 3
Business	___ 4	___ 4
Other (what?)	___ 5	___ 5
_____		
Not applicable (no property)	___ 8	___ 8

f) Custody:

Sole, all children	___ 1	___ 1
Sole, but not all children	___ 2	___ 2
Joint physical custody	___ 3	___ 3
Joint legal custody	___ 4	___ 4
* Split custody	___ 5	___ 5
Other (what?)	___ 6	___ 6
_____		

Did not want custody	___ 7	___ 7

* Sole custody of different children by each parent

g) CUSTODIAL PARENT: What access (to the children) arrangements did you want

OR

h) NON-CUSTODIAL PARENT: What access arrangements did you want? (read times starting with schoolnights)

		Custodial	Non-Custodial
I Schoolnights	None	1	1
	Some	2	2
	Not Applicable	8	8
II Weekends	None	1	1
	One a month	2	2
	Every third	3	3
	Every second ...	4	4
	N/A	8	8
III Birthdays	None	1	1
	Some	2	2
	N/A	8	8
IV Major holidays	None	1	1
	Some	2	2
V Summer Holidays	Two months	6	6
	One month	5	5
	Three weeks	4	4
	Two weeks	3	3
	Less than 2 wks..	2	2
	None	1	1
VI Any time or time period by agreement between us		1	1
VII Any time the children wanted		1	1

Q45. What access (to the children) arrangements were actually made?

		Custodial	Non-Custodial
I Schoolnights	None	1	1
	Some	2	2

	* N/A		8		8
II Weekends	None		1		1
	One a month	2		2	
	Every third		3		3
	Every second	4		4	
	* N/A		8		8
III Birthdays	None		1		1
	Some		2		2
IV Major holidays	None		1		1
	Some		2		2
V Summer Holidays	Two months	6		6	
	One month	5		5	
	Three weeks	4		4	
	Two weeks	3		3	
	Less than 2 wks..	2		2	
	None		1		1
VI Any time or time period by agreement between us		1		1	
VII Any time the children wanted			1		1

* e.g. live too far away

Q46. What access (to the children) arrangements are in place for grandparents or relatives?

I Schoolnights	None	1
	Some	2
	Not applicable	3
II Weekends	None	1
	One a month	2
	Every third	3
	Every second	4
	Not applicable	5

III Birthdays
- None 1
- Some 2

IV Major holidays
- None 1
- Some 2

V Summer holidays
- Two months 1
- One month 2
- Three weeks 3
- Two weeks 4
- Less than 2 weeks 5
- None 6

VI Any time grandparents wanted
- Yes 1
- No 2

VII Any time children wanted
- Yes 1
- No 2

Q47. Interviewer: If the custodial parent does not want the non-custodial parent to have access to the children, or very limited access (less than 2 weeks in the summer, no school night, none or 1 weekend a month, no birthdays, no major holidays, no school breaks), then ask:

(a) Why don't you want your ex-partner to have access/greater access to the children? (Answer as many as apply)

- Ex not interested 1
- Ex lives too far away 2
- Ex may abuse them 3
- Can't trust ex to look after them properly 4
- Don't want the children to be around present partner 5
- Children do not want to 6
- Custody or access order does not allow contact 8
- Other (what?) 9

_____

_____

If the non-custodial parent has no or greatly limited access to the children (less than 2 weeks in the summer, no school night, none or 1 weekend a month, no birthdays, no major holidays, no school breaks) ask:

(b) Why do you have no access or greatly limited access to the children?

Not interested 1
Live too far away 2
Ex thinks I may abuse them 3
Ex does not trust me to look after them properly 4
Ex does not want the children to be around my present partner 5
Children do not want it 6
Custody or access order does not allow contact 7
Other (what?) 8

_____

Q48. Is access (visits) to the children supervised? (circle one)

Yes 1
No 2

If **yes**, why?

_____

_____

_____

Q49. Taking all your expenses into account, approximately how much money did you spend on obtaining your divorce? (Count: payments to lawyer(s), expert witnesses, baby-sitting, meals, parking, transportation, lost pay from having to miss work and any other

divorce/separation-related expenses) (enter $ amount on line)

About $_____

Q50. At the present time, are any of the arrangements regarding custody, access, support or property/financial division, being enforced or monitored by the government?

Child Support
Yes 1
No 2

What type of enforcement? _____

Custody
Yes 1
No 2

What type of enforcement? _____

Access
Yes 1
No 2

What type of enforcement? _____

Property/financial
Yes 1
No 2

What type of enforcement? _____

Q51. Overall, how is your economic situation now as compared with before your separation/divorce?

Much worse	1
Worse	2
No change	3
Better	4
Much better	5

CHANGES

Q52. Since your separation/divorce, have you experienced any of the following changes in your circumstances? (circle as many as apply)

Living with a new partner	1
Moved to a new residence	2
Changed my job	3
Became unemployed	4
Serious physical illness	5
Mental illness	6
Improved my education	7
New child(ren)	8
Other (what?)	9

_____

Q53. Since your divorce was granted by the court, have you and your ex-spouse just between yourselves, agreed to changes in arrangements relating to: (answer for each)

a) Child support

Yes	1
No	2
DNA	8

If **yes**, about how many times? _____ times

What specific arrangements do you agree to?

b) Spouse support

Yes	1
No	2
DNA	8

If **yes**, about how many times? _____ times

What specific arrangements did you agree to?

c) Custody

Yes	1

No 2
DNA 8

If **yes**, about how many times? _____ times

What specific arrangements did you agree to?

d) Access

Yes 1
No 2
DNA 8

If **yes**, about how many times? _____ times

What specific arrangements did you agree to?

e) Property division

Yes 1
No 2
DNA 8

If **yes**, about how many times? _____ times

What specific arrangements did you agree to?

Q54. Since your divorce was granted have you had to go back to court in order to change arrangements relating to custody, support, access or property division? (circle one)

Yes 1
No 2

If **yes**, approximately how many times? (enter zero if none)

Child support	_____ times
Spouse support	_____ times
Custody	_____ times
Access	_____ times
Property division	_____ times

If **no**, why not?

Upsetting for the children	1
Could not afford to	2
Parents/relatives helped sort things out	3
Marital counsellor helped	4
Mediator helped	5
We sorted things out ourselves	6
There were no unsettled issues	7
Other (what?)	8

_____

Q55. Listed below are a number of reasons why you may have had to return to the court. Which ones apply to you? (circle as many as apply)

CHILD SUPPORT

a)	Ex-spouse was not paying monthly child support payments regularly (i.e. missed and/or late payments)	1
b)	Ex-spouse was paying less than the amount that was supposed to be paid	2
c)	Wanted an <u>increase</u> in child support payments	3
d)	Wanted a <u>decrease</u> in child support payments	4
e)	My ex-spouse and I wanted to make changes in child support payments that we both agreed to	5

If (a) or (b) is circled, ask why? (circle one)

Unemployed	1

On welfare 2
Ex-spouse not allowing visits to children 3
Other (what?) 4

ACCESS

f) Ex-spouse was not providing me access to the children as she/he was supposed to 6
g) Ex-spouse was not complying with the access arrangements as he/she was supposed to (e.g. brought children back late) 7
h) I wanted to see the children more often 8
i) I wanted to stop my ex-spouse from seeing the children so often 9
j) I wanted ex-spouse's visits with the children supervised 10
k) My ex-spouse and I wanted to make changes in access arrangements that we both agreed to 11

CUSTODY

l) I wanted to change the custody arrangements from sole to joint custody 12
m) I wanted to change the custody arrangements from joint to sole custody 13
n) My ex-spouse and I wanted to make changes in custody arrangements that we both agreed to 14
o) Ex-spouse wanted to change custody arrangements from sole to joint custody 15
p) Ex-spouse wanted to change custody arrangements from joint to sole custody 16

PROPERTY DIVISION

q) I wanted a fairer share of the property/financial resources that I was entitled to 15
r) I wanted to prevent my ex-spouse from getting more property/financial resources than she/he was entitled to 16
s) My ex-spouse and I wanted to make changes in property/financial resources that we had both agreed to 17

Q56. Since your divorce, have any of the following things happened to you?

a) Left your own home because of your ex-partner's violent behaviour or threats

Yes 1
No 2

b) Called police to your home because of your ex-partner's violent behaviour or threats

Yes 1
No 2

c) Obtained a peace bond or restraining order against your ex-partner

Yes 1
No 2

Q57. On the whole, how well are the children coping with the divorce?

Very well 1
Well 2
Adequately 3
Badly 4
Very badly 5
Don't know 6

RELATIONSHIPS WITH EX SPOUSE

Q58. If you see or speak to your ex-partner these days are these meetings/conversations usually:

Very friendly 1
Friendly 2
Not very friendly 3
Very unfriendly 4

Q59. Some divorced couples can work together cooperating on matters arising from the divorce regarding the children. Is this true for you?

Yes, everything 1
Yes, most things 2
Yes, some things 3
Yes, a few things 4
No, nothing 5

Q60. How do you usually communicate with your ex-partner on matters regarding the children?

Face to face 1
By telephone 2
By letter 3
Through lawyer 4
Through the children 5
Other (how?) 6

Q61. At present, how well do you and your ex-partner communicate on matters regarding to the child(ren)?

Very well 1
Fairly well 2
Not at all 3

Q62. Since you signed a settlement/agreement has your ex-partner done any of the following things to you? (Often, Sometimes, Infrequently)

	No	Yes Infrequently	Yes Sometimes	Yes Often

a) provided verbal support and encouragement to you	___	___	___	___
b) provided financial support whenever you needed it	___	___	___	___
c) helped you move, cooked for you, fixed things around the house, drove you places, helped with the children, mowed lawn, removed snow from driveways, helped with household pets, did some household chores, other?	___	___	___	___
d) cooperated with you in your efforts to do what <u>you</u> wanted to do	___	___	___	___
e) caused problems for you with the car, house, credit cards	___	___	___	___
f) said rotten things about you to the children	___	___	___	___
g) telephoned you at all hours of the day & night/visited you at home when he/she was not invited	___	___	___	___
h) spied on you/followed you around	___	___	___	___
i) caused you to be fearful for your safety	___	___	___	___
j) intentionally hurt you physically	___	___	___	___
k) Verbally abused you	___	___	___	___
l) Emotionally abused you (e.g. called you names, put you down, humiliated you)	___	___	___	___

SATISFACTION

Q63. How satisfied are you with the <u>outcomes</u> negotiated for you by your lawyer? (answer for each outcome/issue)

	8 DNA*	5 Extremely Satisfied	4 Very Satisfied	3 Satisfied	2 Very Dissatisfied	1 Extremely
C. Support	___	___	___	___	___	___
S. Support	___	___	___	___	___	___
Custody	___	___	___	___	___	___
Access	___	___	___	___	___	___
Property	___	___	___	___	___	___

* Does not apply

Q64. On the whole, how satisfied are you with the way in which your separation or divorce was processed by each of the following: (answer for all by placing a check mark on the appropriate line)

	8 DNA*	5 Extremely Satisfied	4 Very Satisfied	3 Satisfied	2 Very Dissatisfied	1 Extremely Dissatis.
Judges	___	___	___	___	___	___
Lawyer	___	___	___	___	___	___
Partner's Lawyer	___	___	___	___	___	___
Court staff	___	___	___	___	___	___
Mediator	___	___	___	___	___	___
* Provincial Enforcement Agency (e.g. Supervised Acess, Family Support Plan)	___	___	___	___	___	___

Q65. How do your children feel about the amount of time they spend with your ex-spouse now?

Satisfied 1
Want more time 2

Want less time 3
Do not know 4
Different children feel differently 5

Q66. If some or all of your children do not live with you then how often do you see them?

Every day 1
At least once a week 2
At least once a month 3
Less than once a month 4
Not at all 5
Does not apply 6

Q67. How do YOU feel about the amount of time YOU spend with the child(ren) now?

Satisfied 1
Want more time 2
Want less time 3
Do not know 4
Different children feel differently 5

Q68. If answer is (2) or (3), is this due to (circle more than 1 answer if appropriate)

Job commitments 1
Problems with your spouse 2
Financial problems 3
Other (please specify) 4

_____

Q69. How do your children feel about the amount of time they spend with you now?

Satisfied 1
Want more time 2
Want less time 3
Do not know 4
Different children feel differently 5

Q70. Some parts of the separation/divorce process may be more stressful than others. How stressful for you was each of the following?

Financial pressures	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3
	A Little stressful	4
Impact on children	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3
	A Little stressful	4
Emotional impact on me	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3
	A Little stressful	4
Time & expense involved	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3
	A Little stressful	4
Going to court	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3
	A Little stressful	4
My lawyer's performance	Extremely stressful	1
	Very stressful	2
	Fairly stressful	3

A Little stressful 4

Other (what?)_____

Extremely stressful 1
Very stressful 2
Fairly stressful 3
A Little stressful 4

CONCLUDING SEGMENT

Q71. If you could go back in time and start the separation/divorce process over again, what would you do? (Open ended)

Q72. Based on your experience and knowledge, how can the separation/divorce process be made easier? (Open ended)

Q73. Is there anything else you would like to add that has not been asked? (Open ended)

THANK YOU!

APPENDIX D

Missing Biographical Data*

Variables**	Mother		Father	
	#	%	#	%
Residence	179	89.5	179	89.5
Date of Birth	56	28.0	60	30.0
Education	196	98.0	199	99.5
Income	102	51.0	124	62.0
Expenses	103	51.5	127	63.5
Occupation	181	90.5	179	89.5
Employment	145	72.5	138	69.0
New Partner	117	58.5	117	58.5
Children	5	2.5	5	2.5

* Sample size n = 200

** Information on three biographical variables is not presented because of ambiguity with respect to the "does not apply" and "missing" code categories. These variables are public assistance, stepchildren and number of stepchildren.